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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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12 RILEY'S AMERICAN HERITAGE
13 FARMS, et al.,

14 Plaintiff,

15 v.

16 CLAREMONT UNIFIED SCHOOL
17 DISTRICT, et al.,

18 Defendant.
19

Case No. 5:18-cv-02185-JGB (SHKx)

**SETTLEMENT CONFERENCE
ORDER**

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21 **PLEASE READ THIS ORDER CAREFULLY**

22 This case has been referred to Magistrate Judge Shashi H. Kewalramani for
23 settlement proceedings.

24 The Settlement Conference is placed on calendar for **June 26, 2020 at**
25 **10:00 a.m. Considering the current Coronavirus pandemic, the settlement**
26 **conference will be held by video conference. In the alternative, if a video**
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1 **conference is not attainable then the Court will hold the conference by**
 2 **telephone. The Clerk will provide further information prior to the hearing.**

3 The Magistrate Judge will not be involved in the actual trial of the case, but
 4 rather will attempt to assist the parties in an objective appraisal and evaluation of
 5 the case. In order to have a meaningful and productive session, the following are
 6 guidelines for the parties in preparing for the Settlement Conference.

7 1. The purpose of the Settlement Conference is to permit an informal
 8 discussion between the attorneys, parties, non-party indemnitors or insurers, and
 9 the settlement judge, of every aspect of the case bearing on its settlement value.

10 2. Pursuant to Local Rule 16-14.8, all settlement proceedings shall be
 11 confidential and no statement made during these proceedings shall be admissible in
 12 any proceeding in the case, unless the parties otherwise agree. No part of a
 13 settlement proceeding shall be reported or otherwise recorded, without the consent
 14 of the parties, except for any memorialization of a settlement.

15 3. In addition to counsel who will try the case being present, a person
 16 with full settlement authority should also be present for the conference. This
 17 requirement means the physical presence of your client or, if a corporate or
 18 governmental entity, of an authorized and knowledgeable representative of your
 19 client.¹ The plaintiff's representative must have full and final authority, **in the**
 20 **representative's sole discretion**, to authorize dismissal of the case with prejudice,
 21 or to accept a settlement amount recommended by the settlement judge. The
 22 defendant's representative must have final settlement authority to commit the
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25 ¹ Unless otherwise ordered by the Court, however, if this matter is a
 26 lawsuit in which the United States or any of its agencies is a party, the Assistant
 27 United States Attorney who will try the case may appear without a representative,
 28 provided that he or she comes armed with the full measure of authority conveyed
 by his or her superiors within the United States Attorney's Office after appropriate
 consultation.

1 defendant to pay, **in the representative's sole discretion**, a settlement amount
2 recommended by the settlement judge.

3 The purpose of this requirement is to have representatives present who can
4 settle the case during the course of the conference without consulting a superior.

5 4. Subject to paragraph 7 below, if Board approval is required to
6 authorize settlement, the attendance of at least one sitting and knowledgeable
7 member of the Board (preferably the Chairman) is **absolutely required**.

8 5. Subject to paragraph 7 below, counsel appearing without their clients
9 (whether or not counsel purportedly have been given settlement authority) will
10 cause the settlement conference to be cancelled and rescheduled. The
11 noncomplying party, attorney, or both, may be assessed the costs and expenses
12 incurred by other parties as a result of such cancellation and rescheduling.

13 6. Any insurance company that is a party to the case or is contractually
14 required to defend or to pay damages assessed within policy limits, should have a
15 settlement representative present at the conference. Such representative must
16 have final settlement authority to commit the company to pay, **in the**
17 **representative's sole discretion**, an amount recommended by the settlement
18 judge within the policy limits. The purpose of this requirement is to have an
19 insurance representative present who can settle the outstanding claim or claims
20 during the course of the conference without consulting a superior. Counsel of
21 record will be responsible for timely advising any involved non-party insurance
22 company of the requirements of this Order.

23 7. When a person whose personal attendance would otherwise be
24 required pursuant to the foregoing paragraphs resides outside the District, the
25 Court will consider excusing the personal attendance of such person, so long as
26 such person can and will be available by telephone during the entire settlement
27 conference. **If a party desires to avail itself of this excuse from personal**
28 **attendance, counsel should so request in such party's Settlement Conference**

1 **Statement** (and specify where such person will be located during the settlement
2 conference). After the party's Settlement Conference Statement is submitted,
3 counsel should contact Magistrate Judge Kewalramani's courtroom deputy clerk to
4 ascertain whether the request has been granted. **Such requests are not**
5 **automatically granted.**

6 8. The Magistrate Judge may, in his discretion, converse with the
7 lawyers, the parties, the insurance representatives, or any one of them outside of
8 the hearing of the others. The comments of the judge during such separate
9 sessions are not to be used by counsel in settlement negotiations with opposing
10 counsel. This is a necessary requirement in order to avoid intentional or
11 unintentional misquotation of the judge's comments. If all counsel and parties are
12 not present to hear the Court's opinions, it is all too easy for counsel to
13 misrepresent the Court's comments in an effort to obtain a tactical advantage with
14 opposing counsel. Violation of this policy may be misleading and therefore a
15 hindrance to settlement.

16 9. Prior to the Settlement Conference, the attorneys are directed to
17 discuss settlement with their respective clients and insurance representatives, so
18 that the parameters of possible settlement will have been explored well in advance
19 of the Settlement Conference. At the Settlement Conference, each party shall be
20 fully prepared to discuss all economic and non-economic factors relevant to a full
21 and final settlement of the case.

22 10. Assuming the settlement conference remains on calendar, no later
23 than 4:00 p.m. five (5) court days prior thereto, each party shall **submit a**
24 **Settlement Conference Statement directly to the chambers of Magistrate**
25 **Judge Kewalramani** (i.e., United States District Court, Eastern Division,
26 Riverside Courthouse, 3470 Twelfth Street, Courtroom 3, Riverside, California) or
27 via e-mail to the chamber's e-mail address, **shk_chambers@cacd.uscourts.gov**.
28 The parties need not provide the Statement to the other side, but may do so, if they

1 choose. The Statements should not be filed with the Clerk of the Court, and they
2 will not be made part of the case file. The parties must comply with Local Rule 11-
3 3.1 by using a proportionally spaced or a monospaced typeface. The size of a
4 proportionally spaced face must be 14-point or larger and a monospaced faced may
5 not contain more than 10.5 characters per inch. The parties' respective Settlement
6 Conference Statements shall include the following:

7 A. A brief statement of the facts of the case, and of the claims and
8 defenses remaining to be tried, including the statutory or other grounds upon
9 which the claims are founded. This statement should identify the major factual and
10 legal issues in dispute, and cite any controlling authorities.

11 B. An itemized statement of the damages claimed, and of any other relief
12 sought.

13 C. A summary of the proceedings to date, including any case
14 management dates/deadlines already set by the District Judge.

15 D. A history of past settlement discussions, offers and demands,
16 including the most recent settlement offers exchanged.

17 E. A forthright evaluation of the party's likelihood of prevailing on each
18 of its claims and/or defenses.

19 F. The approximate amount of attorney's fees, time and costs expended
20 to date, and an estimate of the fees, time and costs to be expended for (i) further
21 discovery, (ii) pretrial and (iii) trial.

22 G. The party's evaluation of the terms on which the other side is
23 prepared to settle the case.

24 H. The party's evaluation of the terms on which the case could be settled
25 fairly, taking into account the litigation position and settlement position of the
26 other side.

27 11. If it does not appear to the Court from its review of the parties'
28 Settlement Conference Statements that a Settlement Conference at this juncture in

1 the proceedings is likely to result in a settlement of the matter, the Court may order
2 the Settlement Conference off calendar or defer it to a later juncture in the
3 proceedings (e.g., after a pending or anticipated dispositive summary judgment
4 motion is decided). Similarly, if the parties do not believe a settlement is possible,
5 then they shall say so in their Settlement Conference Statement.

6 12. Counsel should have available for the Court's perusal copies of all key
7 documents in the case, as well as copies of all important witnesses' deposition
8 transcripts.

9 13. Any failure of the trial attorneys, parties or persons with authority to
10 attend the conference may result in sanctions to include the fees and costs
11 expended by the other parties in preparing for and attending the conference. The
12 failure of any party to timely submit a Settlement Conference Statement and
13 Confidential Addendum in compliance with this Order, or otherwise comply
14 strictly with this Order, may result in the Settlement Conference being ordered off
15 calendar and sanctions being imposed.

16 14. If settlement between any or all parties is reached as a result of the
17 Settlement Conference, it is the responsibility of counsel to immediately report the
18 settlement to the District Judge's courtroom deputy clerk, as well as to timely
19 memorialize the settlement. See Local Rule 16-14.7.

20 15. All papers submitted for the Settlement Conference will either be
21 returned to the parties or destroyed by the Magistrate Judge, after the settlement
22 proceedings are concluded, unless the parties agree otherwise.

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25 Dated: June 19, 2020



26 HONORABLE SHASHI H. KEWALRAMANI
27 UNITED STATES MAGISTRATE JUDGE
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